

Notice of Allowability	Application No.	Applicant(s)	
	10/657,567	FOBIAN ET AL.	
	Examiner	Art Unit	
	Janet L. Coppins	1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' Amendment of October 26, 2005.
2. ☒ The allowed claim(s) is/are 1-16, 21 and 22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ 7. <input type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
|---|--|

DETAILED ACTION

1. Claims 1-22 pending in the instant application.

Information Disclosure Statement

2. Applicants' Information Disclosure Statement, filed October 27, 2005, has been considered by the Examiner. Please refer to the signed copy of Applicants' PTO-1449 form, submitted herewith.

Response to Amendment

3. Receipt is acknowledged of Applicants' Response, filed October 26, 2005, which has been reviewed by the Examiner and entered of record in the file. Accordingly, claims 17-20 have been cancelled, and claims 1, 11, and 21 have been amended in order to delete non-elected subject matter.

Double Patenting

4. Claims 1-11, 21, and 22, in part, previously provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-346 of copending Application No. 10/291,318, filed November 8, 2002, with a common inventor. In view of recent amendatory changes to both applications, there no longer exists any overlap between the two sets of pending claims, and the provisional ODP rejections are withdrawn.

5. Accordingly, method claims 12-16 are herein rejoined for examination on the merits.

Allowable Subject Matter

6. Claims 1-16, 21, and 22, now in amended form, are allowable, as newly renumbered claims 1-18.

7. The following is an examiner's statement of reasons for allowance:

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This invention relates to novel diamino compounds and their compositions that are useful for treating Alzheimer's disease. The claims in this case are 1-22 and the allowable methods are limited to methods of using compounds according to the formula of claim 1 to produce a diamino-hydroxy compound of formula (Y). The allowable compounds are limited to diamino hydroxy-propane derivatives of the formula of claim 1, and their compositions. After a thorough search, the closest of prior art, WO 95/06030, was found to teach similar diamino peptides. However the WO document fails to disclose the same recited compounds according to the formula of claim 1, and it also teaches different methods of use (anti-virals). Therefore, the prior art fails to teach, anticipate, or fairly suggest the instant claimed diamino-hydroxy compounds, compositions, or their methods of use.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L. Coppins whose telephone number is 571.272.0680. The examiner can normally be reached on M-F 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Joseph K. McKane can be reached on 571.272.0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Janet L. Coppins
January 5, 2006

KAMAL A. SAEED, PH.D.
PRIMARY EXAMINER


for Joseph K. McKane,
SPE, Art Unit 1626